

---

**From:** Peterson, Erik  
**To:** Wu, Jennifer  
**Sent:** 9/16/2014 3:26:49 PM  
**Subject:** RE: Forestland Applications  
**Attachments:** Forest Herbicides in California.docx

Here is the updated memo. Let me know if this answers the question(s).

EP

**From:** Wu, Jennifer  
**Sent:** Tuesday, September 16, 2014 8:38 AM  
**To:** Peterson, Erik  
**Subject:** RE: Forestland Applications

Thanks, Erik! As I was talking with JB yesterday, she asked that if there are riparian buffers, does that de facto mean that applicators could not spray herbicides because that would kill the vegetation? What do you think of that? It may not be enough to just have riparian buffers for Type N streams, but it would help. Certainly in California, having at least riparian buffers on Type N streams is helpful for pesticides.

**Ex. 5 - Deliberative**

Erik, thanks again for following up. It frees me up to dig through other files and write up the issues paper.

**From:** Peterson, Erik  
**Sent:** Monday, September 15, 2014 1:31 PM  
**To:** Wu, Jennifer  
**Subject:** RE: Forestland Applications

Jenny,

Thanks for the follow-up questions to confirm whether the no-harvest buffers do or do not have a relationship with pesticides regulation, and whether any counties (there are really only 5 CA counties with substantial timber production so should be doable) have buffers for aerial herbicide application. I'll also check into and consider this forward. I'll combine what I find into an updated version of the memo I sent you last Friday.

Erik Peterson  
Office of Ecosystems, Tribal and Public Affairs  
EPA Region 10 - Seattle  
[peterson.erik@epa.gov](mailto:peterson.erik@epa.gov)  
206-553-6382

**From:** Wu, Jennifer  
**Sent:** Monday, September 15, 2014 1:03 PM  
**To:** Peterson, Erik  
**Subject:** FW: Forestland Applications

Hey Erik , here's some info I got from California, but haven't looked at it yet.

**From:** Kunz, Nicholas@Waterboards [<mailto:Nicholas.Kunz@waterboards.ca.gov>]  
**Sent:** Monday, September 15, 2014 11:37 AM  
**To:** Wu, Jennifer; Whitley, Daniel@Waterboards

**Cc:** Acosta, Vic@CDPR; Sarracino, Regina@CDPR; Farnsworth, George@CDPR; Duncan, David@CDPR; Zeiss, Michael@CDPR; Shattuck, Jim@CDPR

**Subject:** RE: Forestland Applications

Jennifer,

Attached is a table of the Forest Program permits with specified conditions for pesticides applications under silviculture activities.

-Nick

---

**From:** Wu, Jennifer [mailto:Wu.Jennifer@epa.gov]

**Sent:** Tuesday, September 09, 2014 11:29 AM

**To:** Kunz, Nicholas@Waterboards; Acosta, Vic@CDPR

**Cc:** Sarracino, Regina@CDPR; Farnsworth, George@CDPR; Duncan, David@CDPR; Zeiss, Michael@CDPR; Shattuck, Jim@CDPR

**Subject:** RE: Forestland Applications

Thanks so much for this information. This is very helpful to know. There seems to be a range of what neighboring states are doing. Washington and Idaho have specific buffers for aerial application of herbicides on fish-bearing, non-fish bearing, and drinking water streams in their Forest Practices Acts, **Ex. 5 - Deliberative**

**Ex. 5 - Deliberative** if you have other information on aerial application of herbicides for timber where California has state-specific requirements, I'd appreciate it.

Thanks,  
Jenny Wu

---

**From:** Kunz, Nicholas@Waterboards [mailto:Nicholas.Kunz@waterboards.ca.gov]

**Sent:** Monday, September 08, 2014 2:00 PM

**To:** Acosta, Vic@CDPR; Wu, Jennifer

**Cc:** Sarracino, Regina@CDPR; Farnsworth, George@CDPR; Duncan, David@CDPR; Zeiss, Michael@CDPR; Shattuck, Jim@CDPR

**Subject:** RE: Forestland Applications

Thank you very much Vic,

I clearly have much detail to learn. For those of you at DPR I currently oversee a Forest Program that works with our Regional Water Board's on both federal (primarily National Forest) and non-federal timberlands (we permit both fed and non-fed). Coincidentally I recently received a request from USEPA up in WA State for which I responded (hence the attached email). The forest program has recently seen an uptick in aerial applications on non-federal industrial timberlands (primarily pre-emergents for post fire veg management), so this was also a good opportunity for me to inquire with DPR on the regs relevant to timberlands. If you or someone you know has done some focused work on timberlands please do contact me. Hopefully this supplements my response for Jennifer.

~~~~~  
Nicholas Kunz  
State Water Resources Control Board  
Division of Water Quality  
Forest Activities Program  
1001 I Street, 15<sup>th</sup> floor  
Sacramento, CA 95814  
Ph: (916) 341-5566  
~~~~~

---

**From:** Acosta, Vic@CDPR [mailto:Vic.Acosta@cdpr.ca.gov]

**Sent:** Monday, September 08, 2014 8:40 AM

**To:** Kunz, Nicholas@Waterboards

**Cc:** Sarracino, Regina@CDPR; Farnsworth, George@CDPR; Duncan, David@CDPR; Zeiss, Michael@CDPR; Shattuck, Jim@CDPR

**Subject:** Forestland Applications

Good morning Nicholas,

Your questions concerning forestland applications were forwarded to me for response. Your questions are answered as follows.

**Question 1:**

Are there any special rules or regs for aerial applications of pesticides on ‘timberlands’ or do they just have to file the appropriate forms?

**Answer:**

As background for DPR’s answers to this question, it is helpful to understand that nearly every pesticide application within California must follow restrictions that protect human health and the environment (including pesticides on forest lands). *Throughout this document, note that neither California regulations nor county-specific conditions apply on property that is owned or controlled by the Federal government or by Native American tribes.* Aside from those exceptions, every pesticide application within California:

- a) Must follow the use restrictions on the label of the pesticide product.** Pesticide product labels impose legally-binding restrictions on how and where the product may be applied. Unless they state otherwise, label restrictions apply nationwide. Food and Agricultural Code (FAC) section 12973 requires that the use of any pesticide shall not conflict with labeling registered which is delivered with the pesticide or with any additional limitations applicable to the conditions of any permit issued by the director or commissioner. Nonetheless, label restrictions are especially effective within California because of California’s effective enforcement. As one example, staff of California’s County Agricultural Commissioner’s conduct approximately 18,000 pesticide-use inspections each year statewide.
- b) Must follow safety regulations within Title 3 of the California Code of Regulations (3CCR).** Two regulations protect against risks mentioned in the questions submitted:
- 3CCR section 6600 (“General Standards of Care”) requires each person performing pest control to operate in a careful manner, and exercise reasonable precautions to avoid contamination of the environment; and
  - 3CCR section 6614 (“Protection of Persons, Animals, and Property”) requires that no pesticide application be made when there is reasonable possibility of contamination of non-target property. Non-target property could include domestic water supply, residences, fish-bearing and non-fish bearing streams, and schools.

Additional regulations apply to specific pesticides. In particular, use of herbicides containing 2,4-D is regulated by:

- 3 CCR section 6460 (“Drift Control”), which sets requirements for wind speed and application-equipment parameters for aerial applications of 2,4-D; and
- 3 CCR section 6464 (“Phenoxy and Certain Other Herbicides”), which sets additional requirements within the Central Valley including prohibiting most aerial applications of 2,4-D within the Central Valley.

The complete text of California’s pesticide-use regulations is available at: [http://www.cdpr.ca.gov/docs/legbills/calcode/chapter\\_.htm](http://www.cdpr.ca.gov/docs/legbills/calcode/chapter_.htm)

- c) For pesticides designated as California Restricted Materials, must follow additional county-specific conditions established by the local County Agricultural Commissioner.** Certain pesticides are designated as California Restricted Materials because of their potential hazard to human health or the environment. Some herbicides registered within California for use on forest lands are California Restricted Materials, including 2,4-D, atrazine, and paraquat dichloride. For a list of all California Restricted Materials, see: <http://www.cdpr.ca.gov/docs/enforce/dpr-enf-013a.pdf>

California Restricted Materials may only be purchased or used by certified applicators, or persons under their direct supervision. To become a certified applicator, it is necessary to pass a written examination and satisfy continuing-education requirements.

In addition, purchase or use of most California Restricted Materials requires a Restricted Materials Permit from the local County Agricultural Commissioner (CAC). The CAC may impose legally-binding restrictions on use within their county as a condition for obtaining a Restricted Materials Permit. Herbicides containing 2,4-D or

paraquat dichloride always require a Restricted Materials Permit, and herbicides containing atrazine require a permit when used within any Groundwater Protection Area. For more information about Groundwater Protection Areas, see: [http://www.cdpr.ca.gov/docs/emon/grndwtr/gwp\\_id\\_gwpa.htm](http://www.cdpr.ca.gov/docs/emon/grndwtr/gwp_id_gwpa.htm)

For more information about county-specific conditions for obtaining a Restricted Materials Permit, contact the relevant County Agricultural Commissioner:

<http://www.cdfa.ca.gov/exec/county/countymap/>.

**Question:**

Also do you know if there is specific guidance for application near non-fish bearing streams?

**Answer:**

California does not have statewide buffers, per se, for pesticide applications around streams. A California regulation (3 CCR 6960, "Dormant Insecticide Contamination Prevention") does establish a buffer for applications of certain insecticides during winter months when tree and vine crops are dormant. Specifically, the regulation requires that applications of certain dormant insecticides must either be managed so as to prevent runoff into sensitive aquatic sites for at least 72 hours, or meet other requirements including that applications are prohibited within 100 feet of any sensitive aquatic sites. However, this regulation only restricts applications of insecticides; it does not affect herbicide applications.

Labels of most pesticide products registered within California for application on forest lands prohibit applying directly to surface water. Labels also caution users about the risk of harming aquatic organisms if applying near surface water. In addition, labels of most products containing the herbicide atrazine explicitly prohibit applications within specified distances from surface water. Additional county-specific conditions may apply for herbicides that are California Restricted Materials, including 2,4-D, atrazine, and paraquat. Again, for more information about county-specific conditions, contact the relevant County Agricultural Commissioner: <http://www.cdfa.ca.gov/exec/county/countymap/>.

On August 13, 2014, U.S. EPA reinstated streamside no-spray buffer zones, 60 feet for ground applications and 300 feet for aerial applications in California, Oregon and Washington to protect salmon as a result of final settlement agreement for Northwest Center of Alternatives to Pesticides v. EPA. The streamside no-spray zones are imposed for the pesticides carbaryl, chlorpyrifos, diazinon, malathion and methomyl in waters that support salmon. See link at [http://www.epa.gov/oppfead1/cb/csb\\_page/updates/2014/ncap-epa.html](http://www.epa.gov/oppfead1/cb/csb_page/updates/2014/ncap-epa.html).

If you have any questions, please call or email me.

Victor B. Acosta, Senior Environmental Scientist, (Specialist)

Enforcement Branch

Department of Pesticide Regulation

California Environmental Protection Agency

1001 I Street, P.O. Box 4015

Sacramento, CA. 95812

[vic.acosta@cdpr.ca.gov](mailto:vic.acosta@cdpr.ca.gov)

(916) 445-3908